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C O N F I D E N T I A L SECTION 01 OF 02 MOSCOW 000774

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TAGS: [ECON](#) [KCRM](#) [KJUS](#) [PGOV](#) [PREL](#) [RS](#)
SUBJECT: RUSSIA: PROSECUTORS COMPLETE KHODORKOVSKIY
INVESTIGATION

REF: MOSCOW 00697

Classified By: DCM Daniel A. Russell for reasons 1.4(b) and (d).

11. (C) Summary. On February 16, the Russian General Prosecutor's Office announced that it had completed the preliminary investigation in the new criminal case against Mikhail Khodorkovskiy and Platon Lebedev (Reftel). The case file will now be turned over to the defendants and their lawyers for an unspecified period of time so that they can review the evidence and make requests for the exclusion or addition of evidence. At the end of this review process, prosecutors will prepare the final indictment. At the same time, the General Prosecutor's Office disclosed substantially more details about the charges against Khodorkovskiy and Lebedev. The charges are complex, but boil down to the allegation that Khodorkovskiy and Lebedev fraudulently acquired controlling interests in three oil companies, used this control to sell oil to other companies that they secretly controlled at deflated prices, and then re-sold the

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oil at real market prices, for a profit of several billion dollars. The speed with which the preliminary investigation was completed and the detailed and complex nature of the charges suggests that the investigation has been going on for a long time. End Summary.

12. (C) On February 16, the Russian General Prosecutor's Office announced that it had completed the preliminary investigation in the new criminal case against Mikhail Khodorkovskiy and Platon Lebedev (Reftel). Pursuant to Russian law, the case file, which contains all of the evidence assembled by investigators, will now be turned over to the defendants and their lawyers so that they can read all the materials, make comments and request that materials be added or excluded. Under Russian law, the decision as to whether or not to grant any defense requests regarding the addition or exclusion of evidence is initially within the discretion of the chief investigator on the case. However, the defendant has the right to challenge the investigator's decisions before a judge after the case has been sent to court for adjudication on the merits.

13. (C) Russian law also provides that the investigator may not impose a time limit on the defendant's review of the case file. However, if the investigator has reason to believe that a defendant is deliberately delaying the process, he may ask a judge to impose a deadline. Under Russian law, after the defendant has reviewed the case file, it must be returned to the investigator so that he may prepare the

indictment. After the indictment has been completed, the case is sent to court for adjudication. Because the law does not specify a time frame for review of the case file by a defendant or preparation of the indictment by the investigator, it is impossible to state with certainty when the Khodorkovskiy/Lebedev case will be sent to court.

¶4. (C) At the same that they announced the completion of the investigation, Russian prosecutors also released a detailed summary of the new charges. The allegations are extremely complex and involve a countless number of companies and transactions during the period 1997-2004. Reduced to essentials, prosecutors charge that Khodorkovskiy and Lebedev acquired controlling blocks of shares in three oil companies (Samaraneftegaz, Yuganskneftegaz, and Tomskneftegaz) and then caused these companies to sell oil at below market prices to other companies they controlled without disclosing to the other shareholders of the selling companies the fact that these were not arms-length transactions. They then allegedly re-sold the oil at market prices, which were approximately 3-4 times greater than the original purchase price. Though not explicitly stated by the Procuracy, under this theory, the victims were the other shareholders of Samaraneftegaz, Yuganskneftegaz, and Tomskneftegaz, who were entitled to the benefit of an arms length sale at market prices, but instead received only the artificially deflated prices allegedly set by Khodorkovskiy and Lebedev in rigged transactions. According to the Procuracy's statement, Khodorkovskiy and Lebedev are alleged to have embezzled and laundered a total of over seven billion dollars during the period 1998-2004.

¶5. (C) Because they allegedly took unfair advantage of their controlling stakes in the oil companies, Khodorkovskiy and Lebedev are charged with embezzlement. Because they allegedly ran all the transactions through a series of front companies with the goal of concealing their participation and

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making the transactions appear legitimate, they are also charged with money laundering. The money laundering charges carry a maximum sentence of 15 years and the embezzlement charges carry a maximum sentence of 10 years.

¶6. (C) Comment: Without closely examining the underlying evidence, it is hard to know evaluate the strength of the new charges. However, the speed with which the investigation was completed and the detailed nature of the allegations suggest that the charges are the product of a thorough, long term investigation.

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